Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1578

KAREN L. LOSEGO, HOWARD ARNOLD, ALFRED M. GLASS, BLANCHE LARRICK, and ALLEN FLOYD,

Petitioners,

vs.

GUERNSEY COUNTY BOARD OF EDUCATION, LEONARD PATTERSON, and JAMES R. ADDISON,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

BRIEF FOR RESPONDENTS IN OPPOSITION

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OPINIONS BELOW

The opinion of the Court of Appeals for Guernsey County, Ohio, is adequately set out in the Appendix to the Petition. The order and judgment of the Ohio Supreme Court overruling a motion to certify the record from the Court of Appeals, Guernsey County, Ohio, and the order and judgment of the Ohio Supreme Court dismissing appeal, are likewise adequately set out in the Appendix to the Petition. However, the opinion of the Court of Common Pleas, Guernsey County, Ohio, as set forth in the Appendix to the Petition, at page A-18, et

seq., is not correctly set forth and the correct opinion of said Court is appended hereto, *infra* page 10, and also the judgment entry of said Court is likewise appended hereto, *infra* at page 21.

JURISDICTION

The basis for claimed jurisdiction is adequately set out in the petition, being 28 U.S.C. § 1257(3).

QUESTION PRESENTED FOR REVIEW

Respondents submit that the statement of the case and argument as set out in the petition indicate the precise question presented for review to be as follows:

> WHETHER SECTION 3501.38 (F), OHIO REVISED CODE, WHICH PROVIDES FOR THE REJECTION OF ENTIRE PART PETITION PAPERS UPON A REFERENDUM ISSUE FOR CERTAIN SPECIFIED ACTS OF MISCONDUCT ON THE PART OF THE CIRCULATOR THEREOF, IS A REASONABLE AND VALID REGULATORY MEASURE ENACTED BY THE STATE OF OHIO IN THE FURTHERANCE OF ITS LEGITIMATE INTEREST IN PROTECTING AND PRESERVING THE INTEGRITY OF THE REFERENDUM AND ELECTION PROCESSES WITHIN THE STATE; AND, THEREFORE, IS NOT VIOLATIVE OF ANY PROTECTED CONSTITUTIONAL RIGHTS OF PERSONS WHO SIGNED A PART PETITION PAPER REJECTED PURSUANT TO THE MANDATES OF SUCH STATUTE.

STATUTE AND CONSTITUTIONAL PROVISIONS INVOLVED

The petition adequately sets out the Ohio statute involved, Ohio Revised Code, § 3501.38(F).

In addition, the following provisions of the United States Constitution are involved in questions presented.

FIRST AMENDMENT:

> "Congress shall make no law . . . abridging . . . the right of the people . . . to petition the government for a redress of grievances."

FOURTEENTH AMENDMENT:

> ". . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

The statement of the case as set forth in the petition is substantially accurate and correct.

ARGUMENT

WHETHER SECTION 3501.38(F), OHO REVISED CODE, WHICH PROVIDES FOR THE REJECTION OF ENTIRE PART PETITION PAPERS UPON A REFERENDUM ISSUE FOR CERTAIN SPECIFIED ACTS OF MISCONDUCT ON THE PART OF THE CIRCULATOR THEREOF,

IS A REASONABLE AND VALID REGULATORY MEASURE ENACTED BY THE STATE OF OHIO IN THE FURTHERANCE OF ITS LEGITIMATE INTEREST IN PROTECTING AND PRESERVING THE INTEGRITY OF THE REFERENDUM AND ELECTION PROCESSES WITHIN THE STATE; AND, THEREFORE, IS NOT VIOLATIVE OF ANY PROTECTED CONSTITUTIONAL RIGHTS OF PERSONS WHO SIGNED A PART PETITION PAPER REJECTED PURSUANT TO THE MANDATES OF SUCH STATUTE.

The question presented for review in the petition was initially argued by the Petitioners in the Court of Common Pleas, Guernsey County, Ohio, at the time of the trial of this action. However, Petitioners failed to include the question of the constitutionality of Ohio Revised Code, § 3501.38(F), as an assignment of error presented to the Court of Appeals, Guernsey County, Ohio, and the latter court did not, therefore, (as revealed by the Opinion of the Court of Appeals which separately addresses each individual assignment of error presented) consider the question.

Thereafter, the issue was revived by Petitioners in their Motion to Certify filed in the Supreme Court of Ohio, and overruled by said Court.

It is well-settled that the right to freedom of association and the right to petition the government as afforded by the First Amendment to the United States Constitution and made applicable to the several states by virtue of the Fourteenth Amendment are not absolute in nature. Such rights may be subject to reasonable regulation by the State in an effort to protect its legitimate interests. The election process is an area where the state has a

legitimate and "compelling" interest to protect the integrity of elections and to prevent fraud and chicanery. Therefore, the state may properly enact reasonable regulations in this area to protect and preserve these legitimate interests.

It has been expressly recognized by this Court, in the case of *Williams v. Rhodes,* 393 U.S. 23, 21 L. Ed 2d 24 (1968), that a state has a legitimate and "compelling interest" in protecting the election process, and discussed the considerations which must be weighed in determining if a regulatory measure is reasonable and valid against a claim that it must fail as being unduly restrictive or burdensome. The Court stated, as follows:

> "In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, *the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification." (Emphasis added.)*
>
> (*Williams v. Rhodes, supra,* at 31)

In a subsequent decision, this Court once again, articulated the proposition that First Amendment rights are subject to reasonable regulation by a State in the furtherance and protection of a legitimate and "compelling interest." *(Storer v. Brown,* 415 U. S. 724, 39 L. Ed. 2d 714 (1974)). The preservation of the election processes was recognized as a "compelling interest" which the State may properly protect.

This Court also stated that a State is not compelled to take any particular course or establish any particular procedure in its effort to protect its "compelling interest" in this regard, and that a State is not required by the First

Amendment to establish ineffectual means to achieve its aims in this regard. So long as the measures adopted are reasonable in consideration of the evils to be guarded against and the goals to be attained, on the one hand, and not overly burdensome or restrictive upon the rights of the individuals involved, on the other hand, the particular method of regulation is left to the discretion of the State (*Storer v. Brown, supra,* at 736). The United States Constitution does not require any one particular form or method of regulating State election processes, and the matter should properly be left to the discretion of the appropriate State agencies, so long as the test of reasonableness is met under all of the circumstances.

The statute (O.R.C. § 3501.38) requires that the circulator of a referendum petition must personally observe each person sign the petition, and sign an affidavit that he observed all such signatures. The statute further provides that no circulator shall knowingly permit any person to sign a name other than his own to the petition and violation of this latter requirement will result in the entire part petition paper being rejected and not only the rejection of the signature improperly affixed to the petition.

Clearly, these requirements imposed upon circulators are not unduly burdensome, and are reasonable efforts by the State to insure that only properly qualified persons sign the petition. The responsibility is upon the circulator to conduct himself properly, and the persons who sign the petition entrust their referendum rights to the circulator. In the instant case, the Guernsey County Board of Education rejected a number of part petition papers in their entirety for misconduct of this nature by the circulator. Petitioners do not challenge the sufficiency of the evidence of impropriety upon which the

rejections were based, nor do they contend the statute (O.R.C. § 3501.38 (F)) was improperly applied by Respondents.

The Ohio Supreme Court has upheld this statutory provision when it is shown that a circulator knowingly permitted a person to sign a name other than his own to a petition (*State ex rel Carson v. Jones, et al.* (1970), 24 Ohio St. 2d 70). Likewise, it has been held to be proper for an entire part petition paper to be rejected when it is proved that the circulator did not personally observe each signature affixed thereto (*State ex rel Zahneis v. Board of Elections* (Ct. App. Hamilton Co. – 1971), 56 Ohio Op. 2d 402).

Therefore, Respondents contend that §3501.38, Ohio Revised Code, is a reasonable regulatory measure by the State in order to protect its legitimate and compelling interest in preserving the integrity of the election processes; and that no rights of Petitioners were violated by the proper rejection of entire part petition papers by the Guernsey County Board of Education in accord with the provisions of said statute.

So long as the regulatory scheme is reasonable under all of the circumstances, and taking into account the interests of the State, on the one hand, and the degree of restriction or burden upon the Petitioners, on the other hand, it is immaterial as to whether there may, or may not, be alternate forms of regulation available. The particular method of regulation is a matter within the discretion of the General Assembly of Ohio, so long as the test of reasonableness is met, under all of the circumstances presented.

CONCLUSION

Section 3501.38 (F), Ohio Revised Code is a reasonable regulatory enactment by the State of Ohio, and is reasonably designed to protect and preserve the "compelling interest" of the State in the integrity of the referendum and election processes and in the orderly conduct of government. The statute is not unduly burdensome or restrictive as to those persons, including Petitioners, who come within its scope.

Therefore, in light of the foregoing authorities and for the foregoing reasons, the Writ of Certiorari should not issue in this cause.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Rule 33(3) (b) of the Rules of Practice of the Supreme Court, the undersigned, a member of the bar of the Supreme Court of the United States, hereby certifies that three (3) copies of the foregoing brief in opposition to the petition for a writ of certiorari were served upon David C. Gibbs, Jr., 6929 W. 130th – Suite 600, Parma Heights, Ohio 44130, this 23 day of May, 1979, by United States mail, postage paid, and that all parties required to be served, have been served.

JAMES R. SCOTT

Prosecuting Attorney
Counsel for Respondents

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APPENDIX

IN THE COURT OF COMMON PLEAS
GUERNSEY COUNTY, OHIO

(Filed June 21, 1978)

Case No. 29796

KAREN L. LOSEGO, et al.,

Plaintiffs,

vs.

GUERNSEY COUNTY BOARD OF EDUCATION, et al.,

Defendants.

OPINION

On January 5, 1976, the Guernsey County Board of Education held its annual meeting as required by Monday of each month as the time for holding its regular meetings as directed in Ohio Revised Code §3313.15. Thereafter, on November 18, 1976, the Board held a special meeting with all members being present. At that special meeting, the Board adopted a resolution to consolidate the Zane Trace Local School District and the Madison Local School District in accordance with the provisions of Ohio Revised Code §3311.26. At that same meeting, the Board, by unanimous vote, also rescheduled the next regular board meeting from Monday, December 6, 1976, to Saturday, December 18, 1976.

On or about November 24, 1976, the clerks of both local boards of education received copies of the resolution to consolidate and the map as directed in O.R.C. §3311.26. Both clerks presented same to their respective

boards. The map received by both local boards was a photocopy of a map which was noticed in the office of the County Superintendent when he took office and which was dated in the year 1968. Certain markings and delineations on the map identified two areas thereon which were indicated to be the Zane Trace School District and the Madison School District. The accuracy of the map as required in O.R.C. §3311.26 is one of the issues in this case.

On December 9, 1976, the County Board of Education held another special meeting to review procedures relative to referendum petitions, there having been some of said petitions, already received by the County Board. At that special meeting on December 9, 1976, the County Board also rescheduled the regular meeting from December 18, 1976, to December 21, 1976, for the reason that December 18, 1976, was a Saturday and the offices would not be open that day. The Resolution rescheduling to December 21, 1976, also provided that referendum petitions would be received until 4:00 p.m., on December 20, 1976. Additional referendum petitions were received by the County Board on December 17 and December 20.

It was determined by the County Board that 880 signatures would be required to equal the statutory demand of thirty-five percent of the qualified electors voting at the last general election. Sixty-nine petition papers were in fact filed with the County Board containing more than fourteen hundred fifty names. The rescheduled regular meeting was held on December 21, 1976, and was continued for completion on the next day, December 22, 1976. At that meeting several of the referendum petition papers were rejected in toto and when it was determined by the County Board that less than 880 signatures remained after all of the rejections up to that time, the County Board resolved not to certify the referendum to the Guernsey County Board of Elections. The County Board of Education then set the effective date of the consolidation of the Zane Trace School District and the Madison School District as December 22, 1976, and appointed the five members of the newly-consolidated district's board of education.

On December 27, 1976, the new district board of education established the school millage for the tax year 1976 at 26.80 mills and certified the same to the Guernsey County Auditor. The Auditor extended this millage upon the tax duplicates for the year 1976 and billed the December, 1976 tax to include the school millage. The Guernsey County Treasurer collected these taxes and same have been distributed to the various taxing districts including the newly-consolidated district.

This action was brought by some of the plaintiffs on January 3, 1977, and by other added plaintiffs in an Amended Complaint filed February 8, 1977, asking that the consolidation be declared null and void, that injunction issue against the collection of taxes pursuant to the consolidation, and return or adjustment of the taxes collected.

Looking first to the issue of the accurate map as required by Ohio Revised Code §3311.26, the first paragraph of that statute reads as follows:

> "The county board of education may, by resolution adopt by majority vote of its full membership, propose the creation of a new local school district from one or more local school districts or parts thereof. Such proposal shall include an accurate map showing the

territory affected. After the adoption of the resolution, the county board shall file a copy of such proposal with the board of education of each school district whose boundaries would be altered by such proposal.

In this case, it is undisputed that the Guernsey County Board of Education met on November 18, 1976, and by unanimous resolution of all five members, proposed the creation of a new local school district from two local school districts, Zane Trace and Madison. The statute provides that such proposal shall include an accurate map showing the territory affected. The testimony of the County Superintendent was that the map was dated 1968 and was found by him in the office when he was first appointed thereto. It is admitted as an Exhibit herein, and identified by various delineations and markings areas referred to thereon as Zane Trace District and Madison District. The Court is of the opinion that the intent of the lawmakers must be determined when they prescribed that "such proposal (consolidation) shall include an accurate map showing the territory affected." How accurate is accurate? The accurate map is by statute an inclusion with the consolidation proposal. That proposal stipulates that the consolidation would include the entire districts of Zane Trace and Madison. There were no "parts thereof" to be included or excluded which might confuse the proposal. In addition, the proposal was ordered distributed to only two recipients, those being the two local school boards affected by the proposal. It appears to the Court that no board member of either school was misinformed or misled by the map, that every board member was fully aware of the fact that the proposal was intended to bring about the consolidation of the two school dis-

tricts in their entirety, and that the map included with the proposal sufficiently outlined and identified those two school districts. This, the Court believes, was the intent of the legislature when an accurate map was ordered as an inclusion with the consolidation proposal. The Court, therefore, finds that the Guernsey County Board of Education substantially complied with the requirements of Ohio Revised Code §3311.26 and that the school officials of both local school districts were neither misled or misinformed by the copies of the map which was included with the proposal, the original of which had been filed in this case as an Exhibit.

Second, with respect to the last sentence of the first paragraph of O.R.C. §3311.26, pertaining to the filing of copies of the proposal with the school boards of the school districts whose boundaries would be altered by such proposal, the Court finds that the clerk of the respective boards received copies of the proposal, and since the statute is silent as to when and in what manner the proposal was to have been delivered to the two boards, mailing copies of the proposal to the Clerk of the two boards and acknowledgment of receipt thereof by said clerks satisfied the statutory requirement.

Third, the plaintiffs herein insist that the meeting of the Guernsey County Board of Education held on December 21, 1976, and continued into the next day, December 22, 1976, was not a regular meeting of that board. The second paragraph of O.R.C. §3311.26 provides as follows:

"A county board of education proposing the creation of a new district under the provisions of this section, shall at its next regular meeting that occurs not earlier than thirty days after the adoption by the county board of the resolution proposing such

creation, adopt a resolution making the creation effective prior to the next succeeding first day of July, unless, prior to the expiration of such thirty-day period, qualified electors residing in the area included in such proposed new district, equal in number to thirty-five per cent of the qualified electors voting at the last general election, file a petition of referendum against the creation of the proposed new district."

As stated in the facts set forth above, the county board held a special meeting on November 18, 1976, and at that meeting, subsequent to adopting the resolution to consolidate, resolved to reschedule their next regular meeting from Monday, December 6, 1976, to Saturday, December 18, 1976. Later, on December 9, 1976, the board rescheduled the next regular meeting from December 18, 1976, to December 21, 1976, offering the reason the fact that December 18 was a Saturday and offices were closed.

This Court is not aware of any law which prohibits or precludes in any manner the rescheduling of a regular school board meeting. The Guernsey County Board held its annual meeting January 5, 1976, as required by O.R.C. §3313.14, and at that meeting fixed the times for holding their regular future meetings as the first Monday of each month. No provision was made by the board of changes in regular meeting dates. Neither was any prohibition made against such changes in regular meeting dates. The law intends that school boards shall have board discretion in the exercise of their official duties. The testimony in this case clearly indicates that the reason for the change of dates of regular meetings of the board was to afford the residents of both local school districts the opportunity

to pursue their rights to remonstrate against the consolidation issue by way of petition for referendum. Courts should not interfere with boards of education in the performance of their official duties unless fraud or abuse of discretion is indicated. This Court finds that the Guernsey County Board of Education had implied authority to change the date of its regular meeting, that this is the common practice of practically all school boards, and that there is no authority to indicate a contrary view.

Fourth, plaintiffs insist that the procedures followed herein in bringing about a proposal violate their constitutional rights to petition, claiming in accordance with the First and Fourteenth Amendments. The evidence indicates that as early as December 7, 1976, certain referendum petition papers were filed with the Guernsey County Board of Education and prior to the time for final filing, 69 petition papers containing 1467 names were filed. It was stated in the testimony that 880 signatures would be required on the referendum petitions to suffice the minimum statutory requirement of 35% of the electors at the last general election. While nothing conclusive can be drawn from mere statistics, the above would clearly indicate that a great many patrons of the two school districts were made aware, if not notified, of the attempted referendum. O.R.C. §3311.26 makes no provision for notice to the residents of school districts of a proposal to consolidate. Thus, it appears that the legislature intended that sufficient notice was given by the county board when it mailed the copy of the consolidation proposal and map to the local school boards. Since this Court has already determined that the county board's actions in this respect were legal, and since the issue of the constitutionality of this procedural statute has been

decided in several cases by the Supreme Court of Ohio to be neither in violation of the First and Fourteenth Amendments or of the Ohio Constitution, this Court, in accordance with those decisions, will not disturb the actions taken by the Guernsey County Board of Education.

Still within plaintiffs' claim of a violation of constitutional rights is the issue of the rejection of some signatures on the referendum petition papers which came about by rejection of the entire petition papers in accordance with Ohio Revised Code Section 3501.38(F). Plaintiffs apparently do not question the actions of the Guernsey County Board of Education concerning the board's review of all the petition papers as required in O.R.C. §3311.26, nor do plaintiffs claim that the reasons for rejection of some of the signatures was not proper. Plaintiffs do claim that the rejection of an entire petition paper containing some valid signatures deprives them of their constitutional right to petition. In this case, the right to petition for a referendum was vested in the electors of the two local school districts and they in turn entrusted the circulators of the petitions for referendum to obtain sufficient signatures thereon to place the issue on the ballot legally and properly. The legislature of Ohio has the power to regulate and control the election processes and it has exercised that power and control by the adoption of §3501.38 of the Ohio Revised Code. The Courts have found the regulations set forth in the statute to be reasonable, and not so unduly restrictive or burdensome as to be violative of constitutional rights. This Court agrees, and in this case finds that the county board of education not only had the right, but had the duty imposed by O.R.C. §3311.26 to reject certain petition papers, and the exercise of this duty does not unreasonably or unconstitutionally deprive a person whose signature thereon is valid of his rights to petition the government.

Fifth, on December 27, 1976, the new district board of education established the school millage for the tax year at 26.80 mills. O.R.C. §5719.01 provides that the lien for real estate taxes attaches on the first day of January of each year even though the amount of the taxes is not determined until later in the year when the taxing districts make their respective tax levies. In this case, the new East Guernsey School District became an effective tax district on the date of the consolidation of the two former local school districts which was December 22, 1976. Since these two former tax districts no longer existed, the newly consolidated district board made a uniform levy throughout the entire new district and established the millage at 26.80. The lien of this tax attached on January 1, 1976. When the boundaries of a taxing district are altered, the power to levy taxes is likewise altered to meet the changes in boundaries. Thus, the taxes based upon the newly-established millage were a valid lien as of January 1, 1976, even though the first half-year tax in accordance therewith as not due and payable until sometime after January 1, 1977. The last half of 1976 tax was not due and payable until later in the year 1977. The distribution of those taxes collected would not be made until the county auditor made his settlement resulting in distribution. The Court finds no violation in any of these procedures of any constitutional provisions of either the Ohio or United States constitutions, either in the nature of a retroactive taxation or contravention of contractual rights.

In summary, the Court finds that the Guernsey County Board of Education properly adopted a resolution pro-

posing the consolidation of the former Zane Trace School District and Madison School District, properly filed copies of the proposal with said school districts, and properly rescheduled their regular meeting date for the obvious purpose of accommodating resident electors of those two school districts in the event they wished to file a petition of referendum against the creation of the proposed new school district. The Court further finds that the Guernsey County Board of Education properly received 69 referendum petition papers containing more than 1450 names, properly receipted the presenters thereof, and properly conducted a review of said petition papers as required by Ohio law. When the Guernsey County Board of Education rejected many of said petition papers for statutory reasons and it became obvious to the board that there were insufficient valid signers to comply with the minimum statutory number, the board acted properly in not certifying the proposal to the board of elections. The resolution of the county board setting the effective date of the consolidation of the two school districts as December 22, 1976, was proper. The Board of Education of the newly-formed district is now a party defendant herein and the Court further finds that said board acted according to law when it established the school millage for the tax year 1976 and certified the same to the Guernsey County Auditor. The Auditor thereupon extended the millage upon the tax duplicates and proceeded to bill for the taxes in the manner set forth in the law.

The Court further finds no violation or abridgment of any constitutional rights, either under the Ohio Constitution or the United States Constitution, in any of the respects claimed by plaintiffs arising out of the adequacy of notice as related to the right to petition, or the collection of petition papers for referendum, or the adjustment of the millage for school purposes.

The Court finds it unfortunate that this issue was not placed on the ballot because it is in this manner that citizens are given the right to express themselves in response to the acts of various governing bodies. However, there must be statutory direction of the manner in which issues such as this are placed on the ballot for the protection of the right itself. Unfortunately, these directives were not followed in this case. This failure to follow statutory directives rendered the attempted referendum invalid before it ever reached the electorate. Therefore, the issues herein are joined in favor of the defendants and against the plaintiffs. Plaintiffs' requests that the consolidation of the former Zane Trace School District and the Madison School District be declared null and void, and that injunctive relief be granted, are hereby denied. Plaintiffs to pay costs.

/s/ JOHN W. HAZARD
Judge

IN THE COURT OF COMMON PLEAS
GUERNSEY COUNTY, OHIO

(Filed June 21, 1978)

Case No. 29796

KAREN L. LOSEGO, et al.,

Plaintiffs,

vs.

GUERNSEY COUNTY BOARD
OF EDUCATION, et al.,

Defendants,

ORDER

This cause came on to be reconsidered by the Court upon the merits, following the order by the Court of Appeals, Fifth Appellate District, Guernsey County, Ohio (in Case No. CA-544) remanding this cause for further proceedings according to law by reason of the absence of a necessary and interested party, to wit: East Guernsey Local School District.

The Court finds that said East Guernsey Local School District is now an additional party Defendant herein by reason of the granting of a motion to intervene, without objection and with the consent of all parties, and that the Attorney General of Ohio has filed his written waiver herein of his right to participate and be heard in this cause as afforded pursuant to Ohio Revised Code, Section 2721.12, and the Court, therefore, finds that all interested and necessary parties in this cause are now properly before the Court, and the Court, therefore, has jurisdiction to determine and decide this cause upon the merits.

The Court further finds that all of the present parties herein, including all Plaintiffs and all Defendants, have

heretofore stipulated and agreed in writing that this matter shall be submitted to this Court upon the record made at the former trial upon the merits, including the pleadings, testimony, exhibits and arguments of counsel, and all parties have waived any and all further hearing and opportunity to submit further evidence or arguments.

This matter now came on to be reconsidered by the Court upon said record, and the Court hereby finds the issues joined herein against the Plaintiffs and in favor of the Defendants upon the findings made and for the reasons as set forth in the Opinion of this Court as filed of even date herewith, with respect to each and every count set forth in the Amended Complaint; and that Defendants acted according to law and in compliance with the statutes of this state in accomplishing the consolidation of the two former local school districts, in rejecting the referendum petitions presented with respect to such question, and in levying and collecting taxes for said East Guernsey Local School District. The Court further finds that the applicable statutes are not unconstitutional either on their face or as applied to the Plaintiffs upon the facts of this case, and therefore, no constitutional right afforded to the Plaintiffs, or any one or more of them, under the Ohio Constitution or the United States Constitution has been violated or abridged by any actions or conduct by the Defendants, in any of the particulars or respects as claimed in the Amended Complaint.

It is, therefore, ORDERED AND ADJUDGED by this Court that the relief demanded by Plaintiffs in their Amended Complaint, be and hereby is denied, including each and every portion thereof, and that the Amended Complaint is hereby dismissed. It is further ORDERED

AND ADJUDGED that Plaintiffs shall pay all costs herein expended.

/s/ JOHN W. HAZARD
Judge
By Assignment

APPROVED AS TO FORM:

CHARLES E. CRAZE
GIBBS, CRAZE & THOMPSON
Attorney for Plaintiffs

JAMES R. SCOTT
Prosecuting Attorney
Attorney for Defendants